

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JEREMIAH CHRISTAIN PITTMAN,)	
)	
Petitioner,)	
)	
-vs-)	Case No. CIV-23-1086-F
)	
WARDEN MILLER,)	
)	
Respondent.)	

ORDER

On December 19, 2023, United States Magistrate Judge Shon T. Erwin issued a Report and Recommendation (doc. no. 7), recommending that petitioner's Application for Leave to Proceed In Forma Pauperis (doc. no. 6) be denied and that he be ordered to prepay the full \$5.00 filing fee for this habeas action to proceed. Magistrate Judge Erwin further recommended that this action be dismissed without prejudice to refiling unless petitioner pays the \$5.00 filing fee in full to the clerk of the court within 20 days of any order adopting the Report and Recommendation.

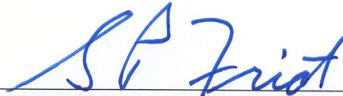
Magistrate Judge Erwin advised petitioner that he may file an objection to the Report and Recommendation by January 5, 2024, and specifically advised that any failure to make timely objection to the Report and Recommendation waives the right to appellate review of the factual and legal issues therein addressed.

To date, petitioner has not filed an objection to the Report and Recommendation and has not sought an extension of time to file an objection.¹ With no timely objection being filed, the court accepts, adopts, and affirms the Report and Recommendation in its entirety.

Accordingly, the Report and Recommendation (doc. no. 7) issued by United States Magistrate Judge Shon T. Erwin is **ACCEPTED, ADOPTED, and AFFIRMED**. Petitioner's Application for Leave to Proceed In Forma Pauperis (doc. no. 6) is **DENIED**.

Petitioner is **DIRECTED** to pay the \$5.00 filing fee in full to the clerk of the court within 20 days from the date of this order. Failure to comply will result in the dismissal without prejudice of this habeas action.

DATED this 22nd day of January, 2024.


STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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¹ The record indicates that on January 8, 2024, the court clerk received from petitioner an "ODOC Offender Statement Report." *See*, doc. no. 8. The court declines to construe the report as an objection to the Report and Recommendation. However, the court notes that the report indicates that as of December 28, 2023, petitioner had a balance of \$103.24 in his savings account. Under Oklahoma law, these funds may be used to pay the costs of federal filing fees. *See*, 57 O.S. § 549(A)(5); Todd v. Attorney General of Oklahoma, 377 Fed. Appx. 832, 834 (10th Cir. 2010) (unpublished decision cited as persuasive pursuant to 10th Cir. R. 32.1(A)).

The record also indicates that on January 19, 2024, the court clerk received from petitioner a copy of Magistrate Judge Erwin's Report and Recommendation, which highlights the language from page 2 "authorization to proceed without prepayment of the filing fee." *See*, doc. no. 9. The court declines to construe defendant's filing as an objection to the Report and Recommendation.